

DOMESTIC RELATIONS COMMITTEE
MEETING MINUTES – DECEMBER 13, 2002

PRESENT:

Hon. Karen Adam
Rene Bartos
Sid Buckman
Kat Cooper
Frank Costanzo
Nancy Gray
Sen. Mary Hartley
Rep. Karen Johnson
Jennifer Jordan

Ella Maley
Hon. Dale Nielson
David Norton
Janet Scheiderer
Ellen Seaborne
Steve Wolfson
Daniella Yaloz
Brian Yee
Jeffrey Zimmerman

NOT PRESENT:

Rep. Kathi Foster
Gordon Gunnell
Terrill Haugen
Sen. David Petersen
Steve Phinney

Ray Rivas (for Hon. Alma Jennings Haught)
Beth Rosenberg
Kelly Spence
Debbora Woods-Schmitt

GUESTS:

Daniel Cartagena
Jennifer Eisenhour
Bill Fabricius
Marianne Hardy
Scott Leska
Therese Martin

Parent
Legislative Services
ASU
House of Representatives
Parent
Office of the Attorney General

STAFF:

Elizabeth Baskett
Megan Hunter
Isabel Gillett

CALL MEETING TO ORDER

The meeting was called to order at 10:24 a.m. by Rep. Karen Johnson with a quorum present.

APPROVAL OF MINUTES

The November 6, 2002 minutes were approved on a unanimous vote.

ANNOUNCEMENTS

Karen Kretschman, Court Programs Unit Manager, Administrative Office of the Courts, explained that budget reductions are impacting the funds available to hold these meetings. Funds are used for staff time, supplies, mileage reimbursement and meals. Recent layoffs leave fewer personnel to staff the meetings and cuts in other budgets have reduced the amount of monies available for other expenditures. Depending on the next round of budget cuts in the Legislature, meeting frequency may be affected.

Commissioner Adam commented that a Tucson newspaper published an article about the state budget's effect on the courts. In the article, Chief Justice Jones indicated that services to families are a priority for the courts and further budget reductions would result in cuts in those services. This committee has support from the highest level of the court.

Members took turns thanking Senator Hartley, co-chair, and Senator Petersen, member, for their years of service, commitment and dedication to the former Domestic Relations Reform Study Subcommittee and more recently to this committee. Both legislators have reached the end of their terms and will leave office in January 2003. This is the last meeting for both.

MARICOPA COUNTY INTEGRATED FAMILY COURT

Phil Knox, Family Court Administrator, Superior Court in Maricopa County, provided an overview of Maricopa County's Integrated Family Court (IFC) Pilot Project. The pilot began in March 2001 and ended in June 2002. The goal was to review and explore improved methods of addressing the needs of children and families as they seek legal and social service assistance from the Court. The pilot hoped to demonstrate the worthiness of joint assignment of cases with direct legal connection. A one-family one-judge concept was initiated with four pilot court judges in Mesa who were authorized to act on any overlapping family, juvenile or probate matter. Cases were screened by staff and submitted to a judge for acceptance or rejection as an IFC case. Ultimately, 68 cases were brought into the pilot.

An outside company evaluated the project and found that:

- the judges strongly support the concept and generally consider the pilot successful;
- there are enough overlapping cases involving members of the same family to warrant an IFC;
- the bar supports the concept and members liked appearing before very experienced judges, but object to required participation in cases for which they have not been retained;
- the county attorney and public defender are opposed to inclusion of delinquency cases in the IFC on the basis of arguments that resources are drained and juvenile court proceedings are disrupted.

The company recommended:

- the IFC has demonstrated the worth of joint assignment of cases with direct legal connection;
- files contain examples of numerous complex cases brought completely and successfully to a close, including one in which the court saved a marriage;
- IFC has not tested the worth of jointly assigning cases with contextual factual connection; such a test is needed as it is part of the core IFC concept;
- It does not make sense to maintain the IFC in its current, limited form; it needs to grow or die.

The overall preliminary recommendations include:

- It should grow - the issue is how it should grow;
- Three alternative strategies:
 - Apply one judge-one family concept across the board
 - Create a few virtually full time IFC specialist judges in each court location
 - Experiment with a staff-based coordination model – family law facilitator
- What case types to include.

INTEGRATED FAMILY COURT (IFC)

Ellen Seaborne, IFC workgroup chairperson, explained that Jerry Landau, the Maricopa County Attorney's lobbyist, is opposed to the IFC plan because of the juvenile delinquency portion of the plan. He believes that the plan would not treat the juveniles with a criminal type adjudication and that they would be treated too leniently. Ellen further explained that the IFC proposal would not change the juvenile delinquency statutes. Mr. Landau also has concerns about the lack of provision for funding for delinquency cases and that the proposal conflicts with other titles. Ellen commented that both allegations are untrue and that the proposal does not change the way we deal with juvenile delinquency cases. Delinquencies are a small part of the picture.

Ellen provided an overview of the actions of various committees as follows:

- The Committee on the Impact of Domestic Violence and the Courts unanimously voted to support the IFC concept;
- The Child Support Committee supported the proposal with concerns about funding;
- The Juvenile Court Judges voted against support of the proposal;
- The Juvenile Court Administrators voted to remain neutral.

MOTION: Adopt the recommendation of the IFC workgroup for IFC plan for Arizona.

Discussion ensued as represented below:

Jeff Zimmerman requested that citizen participation be a part of the lists of people to be included on committees. He also suggested that listing safety as the primary goal of the IFC should be changed to one of the primary goals.

Commissioner Adam objected to putting any specific statutes in the plan.

Dave Norton asked for clarification of whether we are voting on the IFC concept or the actual document. Rep. Johnson replied that the vote is on the concept in general and that she has opened a folder for legislation that will be jointly run from the Senate. Sen. Hartley suggested that a friendly amendment should be made to the motion saying that we are voting on the document itself with the exception of the underlined portions which have yet to be finalized – that we are voting on an actual document that will be forwarded to legislative council. Frank Costanzo asked if the report is the document that is statutorily required. Rep. Johnson replied that we're voting on the legislative intent. Megan explained that the final report voted on today would be submitted, as statutorily required by December 31st, and that any legislative action is up to the legislators.

Ellen Seaborne withdrew her motion.

MOTION: To accept the recommendations made by the Office of the Attorney General and Division of Child Support Enforcement through the Child Support Committee to this document which includes page 2, number 6; page 6, number 3; page 13, paragraph 1; and page 21, number 1. *Motion was seconded and passed.*

Ellen explained that page 8 & 9 contain the same proposal regarding a list of committee members and that including a list may not be prudent because a legislative body should not be telling the Supreme Court who they should have on their committee. She would like a motion to address these two modifications requested.

MOTION: Do not include the recommendations for the Family and Juvenile Court Committee (specific positions) membership as listed on pages 8 and 9 in the report. Motion was seconded and passed. (Jeff)

Ellen continued with a suggested change on page 12 regarding confidentiality requirements and stated that protections are already provided in the system.

MOTION: Delete #2 on page 12 because it is already addressed in statute.

Discussion: Sen. Hartley argued that we leave it in so that it is clear that confidentiality applies in the IFC. Commissioner Adam commented that there are 300 statutes in which confidentiality is mentioned and Rule 123 covers the same issue. Further, if a statement is necessary, a general one is best. Jeff Zimmerman suggested mentioning confidentiality issues in a broad sense.

Friendly Amendment to MOTION: The friendly amendment to the motion was accepted to modify number 2 by placing a period after the word “information” which would strike the following from the sentence: “for victims of crime and safety of victims.” Motion was seconded and passed.

Discussion regarding the recommendation number one under the “Minimum Standards” section page 14. Some members were troubled by listing “safety of the child and victims of crime” as the primary goal of the IFC. Instead, the primary goal for family and juvenile should be the best interests of child. Several members commented that the safety of the child and victims should be one of the goals, but not the primary goals and that the Supreme Court Committee should list the goals, the plan should not.

MOTION: Delete the underlined sentence on page 14, recommendation 5.1.

Discussion: Rene Bartos recommended removal of the last portion of the sentence while leaving the standards in and pointed out that this section was important to the Committee on Domestic Violence and the Courts and they wanted reference to the model code included in the proposal. Kat Cooper recommended changing the language from “should” to “may”. Daniella Yaloz recommended keeping the sentence as is.

Motion was seconded and passed on a vote of 10-6.

MOTION: Delete the underlined paragraph on page referring to a specific statute. Motion was seconded and passed. (Comm. Adam)

Jeff Zimmerman pointed out that the votes today regarding domestic violence are not an attempt to downplay domestic violence; they simply are not in the right place. Ellen asked Daniella to convey Jeff's comments to Diane Post.

MOTION: Approve the recommendations of the IFC workgroup as amended.

Discussion: Since this is the motion that would move the proposal forward for legislation, Janet Scheiderer asked the discussion that occurred in yesterday's Arizona Judicial Council (AJC) meeting be discussed prior to the vote. Ellen replied by commenting that the statute requires us to give a report to the three branches of government by December 31, 2002 and once we have finalized the report, the committee could then discuss implementation. Ellen requested that the motion be entertained at this time. Commissioner Adam stated that she preferred to know the results of the AJC discussion and vote before she votes today.

Ellen withdrew her motion and discussed the AJC vote.

She explained that there were a few negative comments regarding the IFC plan at the AJC meeting on December 12, 2002, including: as demonstrated by the Maricopa County IFC Pilot Project, there were very few crossover cases, robbing juvenile resources to take care of family law, this would be a Prop 108 bill. Rep. Johnson indicated that the legislators would need help from this committee's members to talk with other legislators. If the legislators see this as a self-funding bill, they may be amenable to the idea. She also commented that these funds should be prevented from being raided for other programs or services. Ellen further explained that she thought the issues raised by AJC members were not legitimate because they did not fully understand the proposal. The AJC entertained two votes and both passed. The first was that the proposal is premature and they would prefer to study this as a court system, and second, two pilot projects could be implemented in Coconino and Maricopa Counties.

Ellen pointed out to AJC members at their meeting that a court committee cannot tell the Legislature what to do and that there would be several legislators that want to proceed with this. She fears that if a pilot project is implemented, it will only delay the reality of statewide implementation for a longer period of time. She commented that the Supreme Court may not back us 100% or the justices may step out of the AJC role and speak as a body themselves (which may be supportive). Ellen suggested that we try to meet those three branches of government within the next several days and discuss this situation and get some direction from Chief Justice Jones as to whether he wants us to wait 2 ½ - 3 years, if the Administrative Office of the Courts will fund any pilot projects, and determine what guarantee we have that if we allow the Supreme Court to go ahead, that the program will actually move forward.

Janet Scheiderer explained that the AJC voted to not support this legislation and thought it was premature and that a few counties offered to run pilot projects. Rene Bartos commented that she felt the Supreme Court did not want to be legislated. Frank Costanzo opposed discussing the AJC vote prior to this vote. Janet replied that she wanted to make the committee aware of another option, namely the pilot concept. Using an administrative process instead of legislative would be an easier process to go through. Jeff Zimmerman commented that he does not want to wait for a pilot project, that it is time for this to happen and the courts are given a lot of discretion on how to make it happen.

MOTION: Accept this report as amended for submission to those officials that we have been mandated to give this report to.

The motion was withdrawn so funding options could be discussed first.

Members broke for lunch.

MOTION: Approve the IFC plan for Arizona as amended. *Motion was seconded and passed with one (Janet Scheiderer) abstaining from the vote.*

MOTION: Adopt Funding Scenario 1 as one of our recommendations as to how this program be funded.

AMENDED MOTION: Adopt both funding options along with the report. *Motion was seconded and passed.*

Jeff Zimmerman asked if that vote was to forward legislation or was it simply adoption of the report. Ellen commented that she will meet with leaders from the judiciary, executive and legislative branches to see if a compromise can be reached that will promote the family court bill or an administrative order that is in line with the family court plan.

SUBSTANTIVE LAW

Several members left the meeting, which eliminated a quorum so the Substantive Law workgroup legislative proposals will be postponed until the January 10, 2003 meeting.

DOMESTIC VIOLENCE/CHILDREN

Rene Bartos gave a presentation on the effects of domestic violence on children. She utilized an approach not seen previously by this committee which was the perspective from a pediatrician/public health practitioner's point of view. She proposed that the committee find ways to make things better for children while maintaining access for both parents. She would like to see various laws changed in Arizona such as issues

surrounding supervised access and other custody laws. She explained the effects that witnessing domestic violence has on a child's brain, then linked that to both short-term and long-term behaviors.

Rene introduced Beth Smith, a public health nurse from Tucson to discuss a Pima County initiative called "Breaking the Cycle" to help families involved in domestic violence. Ms. Smith is a public health nurse who works with a coalition of law enforcement and victim witness people to provide immediate and long-term assistance if the family chooses to accept the offer. The purpose is to decrease the amount of violence witnessed by children 6 and younger. The victim witness reaches out to the family first, then the public nurse works with the family on more of a long-term basis. They provide basic public health services such as help finding resources for health care, immunizations, food, and other needs and try to develop a relationship with the family. The agency has received 250 referrals or 2100 contacts which means either a phone call or home visit. Some of the problems they see stem from limited income and women who do not perceive themselves as victims. Public health nurses play a neutral role which allows the family to feel more confident to take advantage of the services offered.

Ellen Seaborne commented that she appreciates Rene's unique approach and requested that the matter be placed on an agenda in early 2003. Jeff Zimmerman suggested that this committee look at each facet of domestic violence separately and in a comprehensive manner, but also consider the organic problem. Daniella Yaloz reminded members that only about 20% of domestic violence victims actually access domestic violence services.

CALL TO THE PUBLIC

Daniel Cartagena, a single father with one child, handed out some information he compiled and discussed the lack of support and laws for fathers. After paternity is established, fathers receive no assistance in terms of access or custody. Fathers have nowhere to turn and no protection under the law. He will come to future meetings to further discuss these issues and domestic violence against fathers.

NEXT MEETING

The next meeting will be held on January 10, 2003, at the Arizona State Courts Building, 1501 W. Washington, Conference Room 119.

ADJOURNMENT

Rep. Johnson adjourned the meeting at 3:36 p.m.